

REMARKS

Claims 6-19, 29 and 30 are pending in this application. Claims 6 and 7 are amended herein.

REJECTION UNDER 35 U.S.C. § 103

Applicant respectfully requests reconsideration of the rejection of Claims 6, 7, 13 and 17-19 under 35 U.S.C. §103 as being unpatentable over Lemelson, U.S. Patent No. 5,845,646. Amended claim 6 is directed to a system for treating a vessel occlusion in a body. The system includes a magnetically active element located proximate said distal tip of said catheter body sufficient to align the distal tip of the catheter generally with respect to the direction of an applied magnetic field; and a magnet outside the body that applies a magnetic field of sufficient strength to align the magnetically active element with respect to the direction of the applied magnetic field to orient the distal tip of the catheter.

Applicant clearly distinguishes between the use of the magnetic field and the magnetic gradient. (See for example paragraphs 0008, 0030, and 0045]. The magnetic field has a direction, and magnetically active objects tend to align with the direction of the magnetic field at a given location. In contrast, the magnetic gradient attracts or repels magnetic objects, in the direction of the gradient. There is a distinct difference between a magnetic field and a magnetic gradient, and in amended claim 6 applicant is claiming the use of the magnetic field.

While Lemelson, U.S. Patent No. 5,845,646 mentions magnetic field and gradient, it is clear that Lemelson is really referring to the gradient. In Column 14, line 2, Lemelson '646 talks about "pulling the catheter in any desired direction within the patient's body". Later in that same paragraph Lemelson talks about the application of external electromagnetic force. Moving the magnetically active element would affect the where force is applied by a gradient, but would not change alignment relative to the prevailing direction of a magnetic field. Thus it is clear that Lemelson is talking about the familiar pulling force of the magnetic gradient (like toward a horse shoe magnet), not alignment with the direction of the prevailing magnetic field as claimed in Claim 6.

Lacking any teaching of alignment with respect to the direction of a magnetic field, rather than pulling toward a direction, Lemelson cannot make the invention claimed in amended claim 6 obvious.

Claim 7 is directed to a system for treating a vessel occlusion in a body. Similar to amended claim 6, amended claim 7 has been amended to require a magnetically active element forming a portion of said distal end of said sheath body sufficient to align the distal end of the sheath body generally with respect to the direction of an applied magnetic field; and a magnet outside the body that applies a magnetic field of sufficient strength to align the magnetically active element with respect to the direction of the applied magnetic field to orient the distal end of the sheath.

Lemelson's teaching of the pulling force of the gradient under this misnomer "magnetic field" is not sufficient to teach or suggest a system that employs alignment with a magnetic field rather than pulling with a magnetic gradient.

Claims 13 and 17-19 are all depend directly or indirectly from amended claim 6, and are allowable for at least the same reasons advanced above with respect to claim 6.

Applicant respectfully requests reconsideration of the rejection of claims 8-12, 14-16, 29 and 30 under 35 U.S.C. §103 as being unpatentable over Lemelson, U.S. Patent No. 5,845,646. The claims all depend directly or indirectly from claim 6 shown above to be patentable over Lemelson. Lemelson's teaching of a magnetic gradient to pull a device in a particular direction does not suggest to a person of ordinary skill in the art to simply align a device relative to a sufficiently strong magnetic field. As explained above the magnetic field and the magnetic gradient are distinct concepts, and the direction of the magnetic field is often not in the same direction as the direction of the magnetic gradient. Thus pulling something with a magnetic gradient could be an entirely direction than aligning it relative to the local magnetic field.

Alignment relative to the direction of an applied magnetic field, allows the user to control the direction of the device without moving or even pulling the device, allowing the user to merely change direction without pulling or moving the device.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7505.

Respectfully submitted,

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